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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,917	11/13/2003	J. Michael Teets	3419-032151	2361

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EXAMINER

FREAY, CHARLES GRANT

ART UNIT	PAPER NUMBER
	3746

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/712,917	TEETS ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Charles G Freay	3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) 19-40, 42-56, 58 and 59 is/are withdrawn from consideration.
- 5) Claim(s) 1-9 and 15-18 is/are allowed.
- 6) Claim(s) 10-14, 41 and 57 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/2003</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 59-61 have been renumbered 57-59. Claims 13 and 41 are objected to because of the following informalities: In claim 13 line 3 "generator" should be "gerotor", and in claim 41 the claim seems to be missing the last paragraph and includes no period. Appropriate correction is required. For purposes of examination claim 41 has been included in Group I in the below restriction requirement. If additional material is added to the claim further restriction may be required.

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-14, 41 and 57, drawn to an electricity generating system having a fuel metering valve, classified in class 60, subclass 734.
- II. Claims 19-24, drawn to a gas turbine having an annular combustor, classified in class 60, subclass 804.

- III. Claims 25 and 26, drawn to a generating system having a split ring located between a compressor and a turbine, classified in class 415, subclass 198.1.
- IV. Claims 27-29, drawn to a generating system which includes a heat exchanger, classified in class 60, subclass 39.511.
- V. Claims 30 and 31, drawn to an electrical generating system having a bearing preloading system, classified in class 60, subclass 796.
- VI. Claims 32-35 and 58, drawn to a means for starting an electrical generation system, classified in class 60, subclass 786.
- VII. Claim 38, drawn to a fuel supply line and purge valve for a gas turbine engine, classified in class 60, subclass 39.094.
- VIII. Claim 39, drawn to a gas turbine having a controller, classified in class 60, subclass 793.
- IX. Claim 40, drawn to an electricity generating system having a generator stator with a cylindrical sleeve, classified in class 310, subclass 156.28.
- X. Claims 42-56 and 58 drawn to a method for starting and operating a gas turbine, classified in class 60, subclass 778.
- XI. Claim 59, drawn to an electrical generating system having an oil pump which supplies oil to a turbine/alternator, classified in class 60, subclass 39.08.
- XII. Claims 36 and 37, drawn to an electrical generating system having a specific fuel type, classified in class 60, subclass 39.461.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II-XII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as an electricity generating system having a fuel metering valve in communication with the combustor. The invention of group I is operable without the particular features set forth in each of the subcombinations of Groups II-XII. Likewise, each of the other groups does not require the features of each of the remaining groups, respectively, for its operation. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Claim 57 link(s) inventions I-V, VII-IX and XII. The restriction requirement of the linked inventions is subject to the nonallowance of the linking claim(s), claim 57. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting

rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Newly submitted claims 19-40, 42-56, 58 and 59 are directed to an invention that is independent or distinct from the invention originally claimed for the reasons set forth above.

Because this is a Reissue Application Group I, directed to the material set forth in the original patent claims has been constructively elected for prosecution on the merits. Groups II - XII have been constructively non-elected and are withdrawn from consideration. See MPEP 1450. Accordingly, claims 19-59 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 57 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had

possession of the claimed invention. Claim 57 sets forth "at least one magnet secured to said rotor" and a stator in close proximity to "said at least one rotor". Throughout specification and claims as originally filed only a "plurality of magnets" was set forth. There is no disclosure of the use of a one magnet.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 41 and 57 are rejected under 35 U.S.C. 102(b) as being anticipated by Adkins et al (USPN 3,187,188).

Adkins et al discloses an electricity generating system having a body (122, 136), a combustor (124), a compressor (132) mounted in a compressor chamber and having plural blades, a turbine (134) having plural blades, an air inlet port (118), and exit port and a generator (Fig.s 3 and 4) having magnets. There is also a fuel pump (140).

Claim 57 is rejected under 35 U.S.C. 102(a) as being anticipated by Bosley (EP 0 742 634).

Bosley discloses an electricity generating system having a combustor (14), a turbine (33, the plural blades are inherent) having a exit port, a compressor (32) having an inlet, and at least one magnet (17) and a stator (22) which form a generator.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 10-12, 14, 41 and 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toesca (USPN 3,247,393) in view of Bosley (EP 0 742 634).

Toesca discloses an electricity generating system having a body (17, 16a, 24), a combustor (27,28), a compressor (15) mounted in a compressor chamber and having plural blades (15a), a turbine (14) having plural blades (14a), a fuel pump (34), a lubricating pump (47), an electric motor (37) driving the pumps (from Fig. 3 the drawings show gear pumps which are positive displacement type pumps), an air inlet port (18), and exit port (25) and a generator (8). Toesca does not disclose that there is at least

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one magnet secured to the rotor. Bosley discloses a generator system having magnets (see col. 10 and Fig. 7) secured to the rotor. At the time of the invention it would have been obvious to substitute the generator and rotor arrangement as taught by Bosley for the structure of Toesca as a well known equivalent generator arrangement which due to shaft and rotor design is more durable.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toesca in view of Bosley as applied to claim 11 above, and further in view of McAlvay (USPN 2,966,118).

As set forth above Toesca in view of Bosley discloses the invention substantially as claimed but does not disclose that the fuel pump has inner and outer rotors. McAlvay discloses a fuel pump having inner (146) and outer (147, Figs. 6 and 8) rotors. At the time of the invention it would have been obvious to substitute the gerotor pump of McAlvay for the gear pump of Toesca as an equivalent and well known positive displacement gear type pump for delivering fuel.

***Allowable Subject Matter***

Claims 1-9 and 15-18 are allowed.

***Reissue Applications***

Applicant is reminded of the continuing obligation under 37 CFR 1.178(b), to timely apprise the Office of any prior or concurrent proceeding in which Patent No. 6,314,717 is or was involved. These proceedings would include interferences, reissues, reexaminations, and litigation.

Applicant is further reminded of the continuing obligation under 37 CFR 1.56, to timely apprise the Office of any information which is material to patentability of the claims under consideration in this reissue application.

These obligations rest with each individual associated with the filing and prosecution of this application for reissue. See also MPEP §§ 1404, 1442.01 and 1442.04.

***Conclusion***

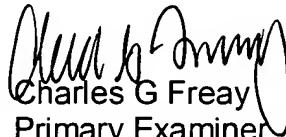
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kizer et al discloses a gerotor fuel pump.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles G Freay whose telephone number is 571-272-4827. The examiner can normally be reached on Monday through Friday 8:30 A.M. to 5:30 P.M..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Thorpe can be reached on 571-272-4444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Charles G Freay  
Primary Examiner  
Art Unit 3746

CGF  
May 23, 2005